

Countywide Comprehensive Plan Update

Application of Resource Conservation Plan Designation

Staff has prepared draft revisions for the RC plan designation mapping that follow parameters described on page #2 of this report. The following background and a description of current regulatory measures, which was first presented to the Planning Commission at its October 29, 2008 workshop is also included for reference.

This report includes a proposed purpose and intent statement for the RC plan designation in an effort to provide guidance for a consistent application of the RC plan designation.

BACKGROUND

The Planning Act of 1992 required comprehensive plans to include a sensitive areas element that includes the following features. In addition, each jurisdiction has the ability to identify additional sensitive areas that may be unique to that jurisdiction.

- Streams and their buffers
- 100-year Floodplain
- Habitats of threatened and endangered species
- Steep slopes (greater than or equal to 25%)
- Agricultural and forest lands for resource protection or conservation (added as a sensitive area element from HB 1141 in 2006)

The 1998 Plan has a very inclusive list of features that would be subject to a RC plan designation. If all of these features were to be mapped as RC, significant areas of the County designated Agricultural/Rural would instead be shown as RC. The 1998 Plan references the required features plus the following:

- Moderate slopes (15-25%)
- Highly erodible soils
- Scenic areas
- Monocacy Scenic River
- Areas of prime agricultural soils outside of community growth areas
- Well head protection areas
- Limestone and conglomerate/carbonate rock areas
- Historic and/or archaeological sites/structures

Current RC Plan Designation Application

Generally, the following features, which do not include all of those referenced in the 1998 Plan, have been used to delineate the current RC plan designation. However, these features have not been consistently applied on the region plans adopted since 1998.

- Mountainous areas with contiguous forestland—includes Catocin Mountain, South Mountain, and Sugarloaf Mountain

- 100-year Floodplain—including Monocacy and Potomac Rivers and major streams. Contiguous forestland beyond the floodplain has been included along some of these.
- Maryland Environmental Trust (MET) Easements—applied RC on two MET easement properties in the New Market Region
- State Green Infrastructure Hubs—applied RC on two areas in the New Market Region

The extensive application of RC on the mountain areas will also encompass other sensitive area features such as steep slopes and habitat areas. The RC along the rivers and major streams may also cover wetlands, habitat areas, steep slopes, and erodible soils.

Recommended RC Plan Designation Application

Staff proposes the following purpose and intent statement for the RC land use plan designation:

To identify significant natural resource features to provide guidance for the application of the Resource Conservation Zoning District and other resource protection strategies. The Resource Conservation areas would also support the delineation of natural boundaries for community growth areas and to identify potential greenway linkages within and between community growth areas.

With regards to the issue of matching the RC plan designation with the RC zoning it was suggested by the Commission at the October workshop to rename the plan designation reference. This would minimize the perceived inconsistency where the RC zoning is not applied to parcels with an RC plan designation. Staff believes that not all of the RC plan designated parcels would need to be zoned RC. Other zoning districts such as Agricultural may be appropriate depending on the location of the resource. Staff would support this idea and would offer the following alternative terms to replace the Resource Conservation plan designation:

- Sensitive Areas
- Environmental Areas
- Natural Resource Areas
- Environmentally Sensitive Areas

The parameters staff used to revise the RC plan designation are described under two primary areas as follows:

Mountain Areas

1. Use property lines whenever possible.
 - This may mean that some forest areas that just barely extend into a parcel are not included as RC.
 - It may also mean that an entire parcel is within the RC area even if portions are cleared.
2. Generally adjust RC line to the extent of contiguous forest with consideration of parcels lines and roads.
3. Consider including major streams that have 100-year floodplain and run parallel to a forest line even if there is no forest directly adjacent to the stream.

4. Consider including steep slopes (> 25%) on cleared land that adjoins the forest.
5. Generally avoid applying over R-1 zoned properties UNLESS two of the three following conditions exist:
 - The properties are larger than approximately 5 acres
 - The properties are entirely forested except for a house site
 - The properties include steep slopes (>25%).

RC Zoning Application

Generally the RC zoning has been applied to all of the mountain areas with the RC plan designation, though some areas in the Middletown Valley have the plan designation but are zoned Agricultural and some parcels are zoned RC but have an Agricultural plan designation. For the mountain areas it is recommended that revisions to the RC plan designations be matched with a corresponding revision with the RC zoning. One implication to be aware of is the additional subdivision potential that may be created by rezoning a parcel from Agricultural to RC.

Stream Corridors

1. Apply along all major streams that define the 20 sub watersheds with 100-year floodplain.
2. Adjust RC line to property lines when possible.
3. Include contiguous forest.
 - Do not include narrow fingers of forest that may extend along small tributaries
4. Include steep slopes (> 25%) that adjoin the 100-year floodplain line.

RC Zoning Application

There has always been a greater inconsistency between the RC plan designation and the application of RC zoning along stream corridors. Since the RC zoning by itself does not afford any significant protection for stream corridors the fact that many major stream corridors remain zoned Agricultural has not resulted in adverse impacts. The primary protection strategies for stream corridors are the County's floodplain regulations and stream buffer regulations that apply to all stream corridors regardless of the underlying zoning.

Other Features

Listed below are other features that could be considered for application of the RC plan designation.

1. MET properties, under private ownership, if they are adjacent to major streams or if the properties are cleared but adjacent to the mountain areas.
2. Green Infrastructure features identified on the State's Green Infrastructure plan.
3. Isolated forestlands that are at least 250 acres of contiguous forest

CURRENT REGULATORY MEASURES

The following describes existing regulations in the County's Zoning Ordinance that assist in the protection of environmentally sensitive features.

RC Zoning District

The Resource Conservation Zoning District is defined in Section 1-19-5.210 of the Zoning Ordinance:

"The purpose of the Resource Conservation Zoning District is to allow low intensity uses and activities which are compatible with the goal of resource conservation to be located within mountain and rural wooded areas. Areas within this district include mountain areas, rural woodlands, and cultural, scenic and recreation resource areas. Environmentally sensitive area within the resource conservation zone, including steep slopes, wetlands and the habitat of threatened and endangered species, will be protected from development."

The following are excerpts from Section 1-19-7.200, Resource Conservation District:

- Areas with slopes of 25% grade and greater shall not be developed. Buildings and structures and parking areas shall not be located on slopes of 25% grade and greater.
- Habitats of threatened and endangered species, as identified by the Maryland Department of Natural Resources, shall be protected from development or disturbance. All subdivisions and site development plans involving an area identified by the county are referred to the Maryland Natural Heritage Program for comment. On sites where a habitat is identified, a mitigation plan will be required to show that adverse impacts on habitat sites are minimized.
- No more than 40,000 square feet of forest shall be cleared for each home site.
- Commercial logging and timber harvesting disturbing over 5,000 square feet of soil shall be subject to:
 - Frederick County Forestry Board review and approval
 - Soil Conservation District approval of a sediment/erosion control plan
 - County Public Works Department approval of a grading permit
 - Maryland Department of the Environment approval for stream crossings
- Optional clustering provisions for residential subdivision lots

Floodplain Regulations

The County's Zoning Ordinance regulates development and general land disturbance within 100-year floodplain, flooding soils, and where delineated historic floodplain. It is important to note that these regulations apply to all properties regardless of the underlying zoning district.

Stream buffer Setback Regulations

The County has recently adopted countywide regulations for the stream buffer corridors that establish more stringent building setbacks and land clearing restrictions based on the slope of the adjoining land. These regulations apply to all zoning districts and would be implemented, as parcels along a stream would go through the subdivision process. These stream buffer regulations will apply to all water bodies and all perennial and intermittent streams.